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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,170	02/27/2004	Donald W. Bogart	Bogart	9925
33303	7590	10/18/2005	EXAMINER	
MARCIA A. DEVON DEVON & ASSOCIATES 400 OCEANGATE BLVD., SUITE 800 LONG BEACH, CA 90802			CANFIELD, ROBERT	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/789,170	BOGART, DONALD W.	
	Examiner	Art Unit	
	Robert J. Canfield	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4 and 7-10 is/are rejected.
- 7) Claim(s) 5 and 6 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

1. This Office action is in response the amendment received 07/26/05. Claims 1-10 are pending.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The terminal disclaimer filed 07/26/05 has been accepted.
4. Claims 1, 2, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,350,289 to Richards.

Richards provides vertical support posts b, g, cantilever beams, support cables k, e, f, covering d, footings/anchors at the bottom of the vertical posts as shown in the figures, and anchor cables e,f. The embodiment of figures 1-3 does not have a front support post j. As such elements a³ alone can be considered the cantilever beams. Alternatively, each triangular "truss" comprised of elements a¹, a² and a³ together may be considered a beam cantilevered from support posts b and g. As to claim 7, Richards provides embodiments with at least one support pole j under the cantilever beam.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,350,289 to Richards in view of U.S. Patent 2,511,974 to Finken et al.

Richards provides each of the elements of these claims as noted above except that the cover material has a hem adapted to receive cables or rods and is tensioned.

The use of hems on flexible cover materials is well known in the arts as demonstrated by Finken. Finken teaches at column 5, providing cords within hems of the tent material. The cords are tensioned to secure the tent material to the frame.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the canvas covering material of Richards could have been provided with cords or cables within hems as taught by Finken. Richards suggests at column 2, lines 29-31 that the canvas may be secured in any convenient way. The use of tensioned cables or cords within hems also allows for the covering to be removed when the tension is released. Richards suggests portability and a knockdown structure at column 4.

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7. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments filed 07/26/05 have been fully considered but they are not persuasive.

Applicant argues that Richards fails to teach a cantilever element. This is not found persuasive. Figure 3 clearly shows an embodiment absent a support post j which is found in the other embodiments. As noted above, elements a³ alone can be considered the cantilever beams or alternatively, each triangular "truss" comprised of elements a¹, a² and a³ together may be considered a beam cantilevered from support posts b and g.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
Art Unit 3635

10/14/05

